Supreme Court, U.S.
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92-1855

No.

In the Supreme Court of the United States

OCTOBER TERM, 1992

YURY MILOSLAVSKY,
TATYANA MILOSLAVSKY,

Petitioners,

v.

CITY OF NEW YORK,
AUDIO ENGINEERING SOCIETY, INC.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

PETITION FOR WRIT OF CERTIORARI
AND APPENDIX

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QUESTIONS PRESENTED FOR REVIEW

HAVE WE HAD THE CLEAR:

1. deprivations of the fundamental civil rights (page 4) of the whole family?
2. federal jurisdiction according to the §§1985, 1443, 241, 1331 (treaties, etc), 1343, 1983, 1986?
3. fabricated (by New York State, New York City) summons and charges #91NO12146?
4. scandalous, uncivilized violations, deeds by the State and Federal Courts?
5. total corruption of "justice" systems in New York area?
6. three INVALID so-called AES expulsion letters?
7. scandalous felonious City's "answers" and criminal methods of conduction of the discovery process?
8. unanswered (by City), accepted for official investigations #91P1008652 of 4/22/91, complaint?
9. other crimes, frauds, violations by NYS, City, AES?

LIST OF INTERESTED PARTIES

1. City of New York (the "City")

2. Audio Engineering Society, Inc.* (the "AES")

3. Yury Miloslavsky

4. Tatyana Miloslavsky

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* *There are no parent or subsidiary companies.*

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PETITION FOR WRIT OF CERTIORARI

Petitioners Yury and Tatyana Miloslavsky respectfully pray that the Court issue a writ of certiorari to the United States Court of Appeals for the Second Circuit and reverse its judgment.

OPINIONS BELOW

The court of appeals' summary order is not published. It is attached as Appendix A. The district court's opinions are not reported and are attached as Appendix B, C.

JURISDICTION

This court has jurisdiction to issue a writ of certiorari to the United States Court of Appeals for the Second Circuit to review its decision. This case involves many federal questions.

The summary order of the Second Circuit was entered on April 30, 1993 (Appendix A).

STATUTES INVOLVED

42 U.S.C. §§1985, 1986, 1983 / 28 U.S.C. §§1443, 1343, 1331 / 18 U.S.C. §241

"A governor of not-for-profit coorporation

has not had any legal power for expulsion /admission if its corresponding BYLAWS do not grant such powers." "New York State has no legal right for non-admission without just cause."-CRL §40-e,c. (see all seven important basic cases in Table of Authorities-page v).

STATEMENT OF THE CASE

It was predicted that the order (by the court of appeals) will be completely false, anti-constitutional, proofless, suppresing, concealing, compounding, etc. We wrote about the total corruption in our two briefs. The next court also put everything upside down.

Indeed:

1) Our notice of appeal (of December 29-1992) stated clearly that we appeal the two false federal opinions (by the district court, App. B, C) concerning both defendants: AES and City. AES refused to reply at all, and City replied only once. City refused to answer our unmasking reply brief and our motion of May 13-1992.

2) We have never had ANY legal VALID

indications, proofs that the plaintiffs and their son were ever expelled from AES. However, it is absolutely unessential for that federal jurisdiction, since the AES events were opened to the public without restrictions through selling of tickets or invitations.

3) We have never had any legal VALID indications, proofs of any legal VALID "settlement", ACD and any trespass (commited by Y. Miloslavsky), relevant courts' references to ridiculous "obstreperous" (App-56-60)...

4) We have never had any compulsory jury trial verdicts concerning the refabricated only trespass charges #91NO12146 and our correct lawsuit (no indications of any agreement on genuine issue of the facts, however, other agreed-upon facts clearly indicate that there was no trespass).

5) We have had the legal VALID indications, proofs of not single (but numerous during many years!) felonious

deprivations of the fundamental civil rights (freedom of assembly, speech, press; freedom from illegal arrest-imprisonment, malicious prosecution; jury trial rights; equal protection by law; at last due process, etc) of OUR WHOLE FAMILY, including our son, by AES, City, NYS, US!

Above points 2)-5) are perfectly explained in our attached appendix (D, E, F, G, H, J).

In fact, the court of appeals clearly (App. A) recognizes that so-called federal judge Sweet fabricated the "facts", when such a court of appeals does not write that: "both plaintiffs were expelled", "annual meeting of AES was on Jan. 21-1991", "plaintiffs did not name arresting cop", etc. Moreover, all the references to the certain language are ridiculous, irrelevant. We use the strictly literary language which is much more appropriate than their charlatanic (so-called "polite") language of the obvious persistent fabrications, falsifications!

Both defendants agree that the only

trespass arrest and the entire incident occured strictly in a public place (the lobby) in the following conditions: the incident occured when the building never belonged to AES, AES never rented the lobby, the building owner, any building personnel never brought any official charges against plaintiffs Y. and T Miloslavsky, the officially recognized ticket, invitations were presented for both plaintiffs for the event opened to the public. The arresting cops knew perfectly all of the above conditions including non-dangerous, non-emergency situation. Such conditions also constitute strictly that the arrest, imprisonment, the cops' only "trespass" summons, the non-admissions of both plaintiffs and their son were strictly felonious and involve even genuine matter of law and do not require even the demanded jury trial. No other official charges were brought by NYS-City cops. And impostor's AES's "official" only "trespass" charges,

non-admissions have been ***RIDICULOUS*** and could never have been legally accepted by the cops, NYS, the federal courts. In such conditions, any reasonable causes, beliefs for the arrest, imprisonment, the NYS charges, non-admissions of whole family (three people) can never exist. ***Only criminal conspiracies can exist instead.***

Moreover, AES BYLAWS (the contract according to NYS laws) have never given any legal power for expulsion/admission to AES governors (City officially recognized such BYLAWS in the discovery process). See cases 1.-5. in Table of Authorities - page v.

And City (courts, NYS, AES also) still play the "fools" and are still depriving OUR WHOLE FAMILY of the fundamental civil rights and are still not prosecuting the obvious criminals.

REASONS FOR ALLOWING THE WRIT

The federal courts have obviously falsified the compulsory criminal and civil processes. It has been more than perfectly explained in

this petition and our two attached briefs, attached Appendix (D, E, F, G, H, I, J).

CONCLUSION

From the Supreme Court we expect a fulfillment of the legal demands stated in our briefs (App-41, 42, 47) and the granting, to plaintiffs, of such other further relief as is just [in fact, the many facts which are agreed-upon by plaintiffs and defendants, the absence of the compulsory things (App-68), the absence of the compulsory legal proceedings-documents, the many submitted documents clearly constitute that City and AES (except copyright and patent treaties for AES without the compulsory discovery process on such causes of actions) already entirely lost the case which involves, in essence, a pure matter of law].

Respectfully submitted, May 19-1993

Yury Miloslavsky Y. M

Tatyana Miloslavsky T. M

Pro se

APPENDIX A

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 30th day of April, one thousand nine hundred and ninety-three.

PRESENT: HONORABLE JON O. NEWMAN,

HONORABLE J. DANIEL MAHONEY,

Circuit Judges.

HONORABLE WARREN W. EGINTON,*

District Judge.

YURY MILOSLAVSKY AND TATYANA MILOSLAVSKY Plaintiffs-Appelants, v.	SDNY 91-cv-6042 Sweet
CITY OF NEW YORK, Defendant-Appellee,	93-7056
AES ENGINEERING SOCIETY, INC., Defendant.	FILED: April 30-1993

ORDER

Appeal from the United States District Court for the Southern District of New York (Robert W. Sweet, Judge).

This cause came on to be heard on the transcript of record from the United States District Court for the Southern District of New York and was argued by appellants pro se and by counsel for appellee.

ON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgement of the District Court be and it hereby is AFFIRMED.

Yury and Tatyana Miloslavsky appeal pro se from the December 16, 1992, judgement dismissing on motion for summary judgment their civil rights complaint against the City of New York. A claim against the defendant AES Engineering Society, Inc. ("the Society"), had previously been dismissed for lack of jurisdiction. The plaintiffs' brief identifies only the City as appellee, though some passages of their vitriolic brief appear

to be challenging the dismissal of their claim against the Society.

The claim arises from an incident in which Yury Miloslavsky was arrested for trespass after attempting to attend a meeting of the Society after the organization had expelled him. A New York City police officer was summoned when Miloslavsky became obstreperous. The criminal charge was ultimately settled by an adjournment in contemplation of dismissal, conditioned on his obeying certain restrictions on contacts with the Society. The Miloslavskys thereafter sued the Society and the City.

The dismissal was entirely correct. The single incident proves no basis for a suit against the City, which may be sued in such matters only for a municipal policy of denying civil rights. See Oklahoma City v. Tuttle, 471 U.S. 808 (1985). Moreover, there is no basis for a claim of malicious prosecution where a criminal case is not terminated in the defendant's favor by an

acquittal or an unqualified dismissal. See Roesch v. Otarola, No. 92-7281 (2nd Cir. Nov. 27, 1992).

If the appellants are still endavoring to pursue their claim against the Society, that portion of the appeal is also without merit. The District Court correctly ruled that there was no federal jurisdiction over the plaintiffs' claim against the Society for breach of contract. Indeed, their claim against the Society, contained in a prior lawsuit, had already been dismissed.

The Miloslavskys are evidently extremely upset to have lost their lawsuit, as the vituperative language of their papers indicates. They are cautioned, however, that further efforts to pursue this litigation or to bring additional claims based on the same underlying episode will subject them to the distinct risk of personal liability for damages for harassing and vexatious litigation.

* Of the United States District Court for the District of Connecticut, sitting by designation.

Circuit Judges.

District Judge.

N.B. THIS SUMMARY WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND SHOULD NOT BE CITED OR OTHERWISE RELIED UPON IN UNRELATED CASES BEFORE THIS OR ANY OTHER COURT.

APPENDIX B

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

YURY MILOSLAVSKY, TATYANA MILOSLAVSKY,

Plaintiffs,

-against-

AES ENGINEERING SOCIETY, INC. and THE CITY OF NEW YORK,

Defendants.

OPINION

91 Civ. 6042 (RWS)

DATED: Dec. 10-1992

APPEARANCES:

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By: NORMA KERLIN, ESQ.

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Of Counsel

Sweet, D.J.

Defendant the City of New York ("The City") has moved under Rule 56, Fed.R.Civ.P., for summary judgment to dismiss the § 1983 complaint of plaintiffs Yury and Tatyana Miloslavsky (the "Miloslavskys"). Upon the facts and conclusions set forth below, the motion is granted, and the complaint is dismissed.

Prior Proceedings

The complaint was filed September 9, 1991 by the Miloslavskys pro se against the City and The Audio Engineering Society ("AES") following the dismissal by the Honorable Robert P. Patterson, on August 27, 1991, of an earlier action against AES for lack of jurisdiction. A similar result was obtained

by an order of this court on December 23, 1991.

Discovery was concluded on May 4, 1992. The instant motion was filed on July 14, 1992 and considered fully submitted on July 21, 1992.

The Facts

The Miloslavskys were members of the AES, a New York Not-For-Profit corporation, until their expulsion from AES on June 28, 1990. On January 21, 1991, John Jacob Rieck, Jr., Esq. ("Rieck"), counsel retained by AES, and Charles Scott ("Scott"), a security consultant retained by AES, observed the Miloslavskys enter the lobby of 311 West 34th Street, the site of AES's annual meeting. Rieck informed Yury Miloslavsky that, due to his expulsion, he could not attend the meeting, and he would be arrested for trespass if he did not leave. He refused to leave and became loud and disruptive. Scott telephoned for the police, who arrived shortly thereafter. Upon being apprised of the situation by Rieck and Scott, Officer

Charles Edmond ("Edmond") of the New York City Police Department approached Miloslavsky and asked him to leave. Miloslavsky again refused to leave. Edmond asked Scott if he wished to press charges. Upon receiving an answer in the affirmative, Edmond arrested Miloslavsky for trespassing. Miloslavsky was then taken to the station house where he was issued a summons.

Miloslavsky was prosecuted on the charge of trespassing at the Criminal Court of the State of New York, and an order of protectin was entered against him on February 20, 1991. The order, part of an agreement consented to by the State and Miloslavsky to adjourn his criminal case in contemplation of dismissal, required Miloslavsky to stay away from all officers, officials, and employees of AES and from all meetings of AES.

Discussion

In determining whether a genuine issue exists on a Rule 56 motion, the court must reslove all ambiguities and draw all

reasonable inferences in favor of the party opposing the motion. See Donahue v. Windsor Locks Bd. of Fire Comm'rs, 834 F.2d 54 (2d Cir. 1987). However, the mere existence of some "metaphysical doubt" concerning the facts will not suffice to defeat a summary judgment motion, see Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574 (1986), nor will speculation or conjecture as to the true nature of the facts, see Quarles v. General Motors Corp. (Motors Holding Div.), 758 F.2d 839, 840 (2d Cir. 1985).

Here the Miloslavskys do not meet the criteria set forth in the Federal Rules and Monell v. Department of Social Servs. of the City of New York, 436 U.S. 658 (1978), bacause they do not name or allege any incidents of substantive fact outside of the arrest of Yury Miloslavsky to demonstrate a municipal policy which caused plaintiffs' alleged constitutional violations.

I. No Municipal Policy Or Custom Caused The Alleged Deprivation Of Constitutional Rights

In Monell, the Supreme Court reviewed the legislative history of 42 U.S.C. § 1983 and concluded that Congress did not intend to impose broad liability on municipalities. See 436 U.S. at 690; see also Oklahoma City v. Tuttle, 471 U.S. 808, 818, 822-24 (1985). It is only when the municipality, through the execution of its policies, actually deprives an individual of his constitutional rights that it is liable for the injury. See Monell, 436 U.S. at 692; Tuttle, 471 U.S. at 821. It follows that, under § 1983, a municipality may not be held liable for the acts of its employees based solely on a theory of respondeat superior. See Monell, 436 U.S. at 690-91.

A municipality will be held liable only for constitutional violations caused by its official policies and customs, and it is necessary that the policy or custom be made by one "whose edicts or acts may be said to fairly represent official policy." Id., 436 U.S. at 694. It is only when municipal

officers who have "final policy making authority" make decisions in a single incident that these actions subject city government to § 1983 liability. Pembaur v. Cincinnati, 475 U.S. 469 (1986). Furthermore, to establish municipal liability, the policy must actually cause the violation of constitutional rights; it must be the moving force behind the violation. Monell, 436 U.S. at 692. The Miloslavskys have not alleged that any municipal officer or policy-maker exercised or encouraged a policy or otherwise intentionally or deliberately deprived them of a constitutional right, nor have they named any municipal officers or agencies in their complaint.

A review of the municipal "policies" alleged in this case illustrates the conclusory and speculative nature of the allegations. In their complaint, plaintiffs alleged that the City of New York:

ha[s] been directly involved in crimes, violations (deprivations of fundamental

civil rights, etc.) frauds & criminal conspiracies with defendants [AES]... It is clear that the City has spread shocking-typical red or brown fascist "justice withiout any exxageration.

Def. City of New York's Ex. 7, ¶ 8. Such statements cannot serve as a basis for an imposition of municipal liability.

Other than the allegedly false arrest of Yury Miloslavsky on January 21, 1991, the Miloslavskys fail to set forth any specific incidents to satisfy their obligation to demonstrate a municipal policy.

II. No Claim Of False Arrest Or Malicious Prosecution Has Been Established

It is well-settled that in an action under 42 U.S.C. § 1983, where probable cause is shown to have existed for a challenged arrest, a law officer cannot be found to have violated the arrestee's constitutional rights as a consequence of that arrest. See Pierson v. Ray, 386 U.S. 547, 557 (1967). This conclusion follows from the fact that, under

New York law, "probable cause serves as a complete defense to the charges of false arrest and malicious prosecution." Graebe v. Falcetta, 726 F. Supp. 36, 38 (E.D.N.Y. 1989). See Zanghi v. Incorporated Village of Old Brookville, 752 F. 2d 42, 45 (2d Cir. 1985); Feinberg v. Saks & Co., 83.A.D.2d 952, 443 N.Y.S.2d 26 (1981), modified on other grounds, 56 N.Y.2d 206, 451 N.Y.S.2d 677, 436 N.E.2d 1279 (1982); see also Coffey v. Wheatland, 135 A.D.2d 1125, 523 N.Y.S.2d 267, 269 (4th Dep't 1987) ("lack of probable cause is a necessary element of plaintiff's cause of action for false arrest and imprisonment").

In determining whether probable cause existed for these purposes, the Supreme Court has held that:

Probable cause to arrest depends upon whether, at the moment the arrest was made the facts and circumstances within the arresting officers' knowledge and of which they had reasonably trustworthy information

were sufficient to warrant a prudent man in believing that the suspect had committed or was committing an offense.

Adams v. Williams, 407 U.S. 143, 148 (1972) (citation and internal quotations ommitted). The validity of the arrest does not turn on an ultimate finding of guilt or innocence. See Winfield v. United States, 430 F. Supp. 912, 914 (S.D.N.Y. 1977) (citing Pierson, 386 U.S. at 555).

To find that probable cause for an arrest existed, it is not necessary to show evidence "beyond a reasonable doubt," the standard required for criminal conviction. See United States v. Pantoja-Soto, 739 F.2d 1520, 1523 (11th Cir. 1984) cert. denied, 470 U.S. 1008 (1985). Nor do police officers need to demonstrate that it is more probable that not an offense has been committed to make a prima facie showing of criminal activity. See United States v. Ginsberg, 758 F.2d 823 (2d Cir. 1985). Instead "[t]he standard of probable cause requires only the probability

of criminal activity." Lindsey v. Loughlin, 616 F. Supp. 449, 452 (E.D.N.Y. 1985) (citing Zurcher v. Stanford Daily, 436 U.S. 547 (1978)).

Moreover, it is well established that a law enforcement official has probable cause to arrest if he received his information from some person, normally the putative victim or eyewitness, who it seems reasonable to believe is telling the truth. See Daniels v. United States, 393 F.2d 359, 361 (D.C. Cir. 1968). The veracity of citizen complaints who are victims of the very crime they report to the police is assumed. See Adams, 407 U.S. at 146-147.

In making the determination that probable cause existed to arrest Yury Miloslavsky on this charge, Edmond relied on the complaint, the positive identification of Miloslavsky by agents of the AES as being the trespasser referred to in the complaint, and the disruptive behaviour exhibited by Miloslavsky. Edmond's conclusion that an

offense has been committed by this plaintiff and that probable cause therefore existed to justify his arrest was objectively reasonable. Accordingly, a false arrest claim by Miloslavsky is untenable.

Moreover, Edmond would also be protected by qualified immunity, an affirmative defense that shields government officials performing discretionary functions from liability for damages insofar as their conduct does not violate another's constitutional rights of which a reasonable person would have known. In cases of alleged false arrest, objective reasonableness does not turn on whether probable cause in fact existed. See Martin v. Malhoyt, 830 F.2d 237, 263 (D.C. Cir. 1987). Objective reasonableness can exist if it is shown "either (a) that it was objectively reasonable for the officer to believe that probable cause existed, or (b) that officers of reasonable competence could disagree on whether the probable cause test was met." Robinson v. Via, 821 F.2d 913, 921 (2nd Cir.

1987) (citing Malley v. Briggs, 475 U.S. 335 (1986)). Having spoken to the crime victim/complainant and having observed Miloslavsky's conduct, Edmond had sufficient grounds to reasonably believe that he had probable casue to arrest Miloslavsky.

Further a § 1983 claim for deprivation of civil rights through malicious prosecution cannot be stated without alleging and proving that the prosecution terminated in some manner indicating that the claimant was not guilty of the offense charged. See Roesch v. Otarola, No. 92-7281, slip op. at 210-11 (2d Cir. Nov. 27, 1992); Singleton v. City of New York, 632 F.2d 185, 194-95 (2d Cir. 1980), cert. denied, 450 U.S. 920 (1981).[1] An adjournment in contemplation of dismissal, like a consent decree, involves the consent of both the prosecution and the accused and leaves open the question of the accused's guilt. See id. at 193. An adjournment in contemplation of dismissal therefore does not constitute a termination in a complainant's

favor. As the Second Circuit has recently noted,

> *[a] person who thinks there is not even probable cause to believe he committed the crime with which he is charged must pursue the criminal case to an acquittal or an unqualified dismissal, or else waive his section 1983 claims.*

Roesch, No. 92-7281, slip op. at 212. The Miloslavskys fail to meet the essence of a § 1983 malicious prosecution claim and cannot maintain it.

In Roesch, the Second Circuit explicitly extended the holding in Singleton regarding malicious prosecution to include § 1983 actions sounding in false arrest and false imprisonment. See id. at 213. Thus, an adjournment in contemplation of dismissal does not constitute a termination in a complainant's favor for the purposes of a § 1983 false arrest claim. From this proposition it follows that, in addition to the "probable cause" and "qualified immunity"

reasons stated above, the Miloslavskys' § 1983 false arrest claim fails along with and for the same reasons as does their malicious prosecution claim.

Conclusion

Upon the facts and conclusions stated above, summary judgment dismissing the complaint is granted.

[1]To recover on a malicious prosecution claim under New York law, a plaintiff must prove four elements:

> *(1) that the defendant either commenced or continued a criminal proceeding against plaintiff; (2) that the criminal proceeding terminated in plaintiff's favor; that there was no probable cause for the criminal proceedings; and (4) that the criminal proceeding was instituted in actual malice.*

Graebe, 726 F. Supp. at 38 (citing Russo v. State of New York, 672 F.2d 1014, 1019 (2d Cir. 1982)).

It is so ordered.

Robert W. Sweet

U.S.D.J.

APPENDIX C

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

YURY MILOSLAVSKY, TATYANA MILOSLAVSKY,

Plaintiffs,

-against-

AES ENGINEERING SOCIETY, INC. and THE CITY OF NEW YORK,

Defendants.

OPINION

91 Civ. 6042 (RWS)

DATED: Dec. 23-1991

APPEARANCES:

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By JOHN JACOB RIECK, JR., ESQ.
Of Counsel

Defendant Audio Engineering Society, Inc. (the "Society") moves to dismiss plaintiffs pro se complaint pursuant to Rule 12 (b)(1) of the Federal Rules of Civil Procedure for lack of subject matter jurisdiction. For the reasons set forth below, the motion is granted, and the complaint against the Society is dismissed.

The Parties

The Society is a not-for-profit corporation organized under the laws of New York State. It serves as a trade association for the audio and audio engineering industries.

Yury Milosalsvky and Tatyana Miloslavsky (the "Miloslavskys") are scientists and were members of the Society. They are residents of New York City.

New York City (the "City") is a domestic

municipal corporation with full governmental authority.

Prior Proceedings

The Miloslavsskys first filed an action in this Court in July 1991. That action was dismissed by the Honorable Robert P. Patterson for lack of subject matter jurisdiction on August 26, 1991. Miloslavsky v. Audio Engineering Society, 91 Civ. 4642 (S.D.N.Y. Aug. 26, 1991). The City was not a party to that action.

The present action was filed on September 9, 1991. The Society filed this motion on Oct. 3, and it was considered submitted on Oct. 24, 1991.

The Facts

The Miloslavskys and the Society have been engaged in an ongoing conflict for at least seven years. The Miloslavskys allege that the Society has committed a number of frauds and other types of misconduct. The Society expelled them in June 1990. In January 1991, Yury Miloslavsky was arrested for trespassing

at a Society meeting. He was prosecuted on that charge and an Order of Protection entered against him on February 20, 1991. The order was part of an agreement to adjourn his criminal case in contemplation of dismissal.

Discussion

A pro se complaint is held "to less stringent standards than formal pleadings drafted by lawyers." Haines v. Kerner, 404 U.S. 519, 520-21 (1972). Constrained by the previous proceedings in this matter, the Court must determine whether the Miloslavskys' current complaint states a cause of action that now gives rise to subject matter jurisdiction.

The Miloslavsky's pleadings state that:

This suit is brought under United States Constitution, Amendments 1, 5, 8, 14; 28 U.S.C. sections 1331, 1391 (b,c), 1443, 1343; 42 U.S.C. sec. 1983/1985; 18 U.S.C. sec. 241 and under Universal Copyright Convention and Patent Treaties. This shows that federal court has original jurisdiction

for this case.

In their first suit, they pleaded that:

This suit is brought under the United States Constitution, Amendments 1, 5, 8, 14; 28 U.S.C. sections 1331, 1391(b,c) [and the internatinal contract - AES BYLAWS]. [sic]. This shows that federal court has jurisdiction for this case.

Judge Patterson found that the Miloslavskys' failed to allege or to demonstrate the existence of diversity of citizenship and that they failed to present a federal question. The facts at that point showed no constitutional violation, nor did they show a sufficient nexus between the state and the Society that would satisfy the state action requirement of a § 1983 action. Instead, the facts alleged only state claims, actionable in state court.

The present complaint has added the City as a defendant and attempts to allege a civil rights violation based upon Yury Miloslavsky's arrest. In Dunton v. County of

Suffolk, 729 F.2d 903 (2d Cir. 1984), the Second Circuit stated:

> *Federal subject matter jurisdiction does not exist "where the claim set forth in the pleading is plainly unsubstantial," a category that includes claims that are "obviously without merit." Thus, the district court has the obligation to examine the substantiality of the federal claims throughout the litigation. Even if the federal claims are discovered to be patently meritless only after the trial begins, once that discovery is made the state claims must be dismissed along with the federal ones.*

Id. at 910 (citations omitted).

If any civil rights violations can now be alleged by the Miloslavskys, it would be in connection with the arrest. However, unless a criminal proceeding is terminated in a person's favor, that person may not bring a civil rights action based upon the arrest that gave rise to the criminal proceeding.

See, e.g., Cameron v. Fogarty, 806 F.2d 380, 387 (2d Cir. 1986), cert. denied, 481 U.S. 1016 (1987). Here, the State and Miloslavsky consented to an adjournment in contemplation of dismissal with a full order of protection. See Trial Transcript, Feb. 20, 1991. The order of protection required Miloslavsky to stay away from all officers, officials, and employees of the Society and from all meetings of the Society. Any civil rights action against the Society based upon the arrest would be patently meritless and insubstantial.

The complaint also appears to allege copyright violations. However, no facts can be found in the Miloslavskys' documents giving rise to a copyright claim outside of blanket allegations. To the extent that the complaint alleges copyright violations, these too are patently meritless and insubstantial. This Court therefore lacks subject matter jurisdiction over the Miloslavskys' complaint against the Society.

Finally, the Miloslavskys could argue that subject matter jurisdiction may be asserted over the Society under Rule 20 of the Federal Rules of Civil Procedure. However, the Court declines to do so.

Since the complaint fails to state a ground by which subject matter jurisdiction may be exercised over its claims against the Society, it must be dismissed. Whether the Miloslavskys' have a claim cognizable in state court is not addressed by this decision.

Conclusion

For the reasons set forth above, the Society's motion to dismiss the complaint against them for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure is granted.

It is so ordered.

ROBERT W. SWEET

U.S.D.J.

APPENDIX D

APPELLANTS' BRIEF

United States Court of Appeals

for the second Circuit

Yury Miloslavsky, and Tatyana Miloslavsky,
Plaintiffs-Appellants,
v.
AES Engineering Society, Inc.,
Defendant,
City of New York,
Defendant-Appellee.

Docket Number #93-7056

---

1. Issues for Review and Statement of the Case

The shortest and best way to state the "Issues for Review" and "Statement of the Case" is to again furnish the feloniously

suppressed Motions of Oct. 15/July 14 and to furnish attached MEMORANDUM OF LAW with Comments to show, in the best fashion, how so-called Federal judge Sweet has obviously falsified the criminal and civil cases, the compulsory criminal and civil processes in *that* Federal court and how s-c judge Sweet has obviously feloniously dismissed the criminal and civil cases for so-called lack of jurisdiction over the two defendants: City,AES.

What is also extremely important is that s-c judge Sweet (and not only s-c judge Sweet; Federal prosecutors, etc) has also feloniously suppressed-concealed our very important legal court's documents of Feb. 7/24-1992, etc!

What is also extremely important is that s-c judge Sweet has amazingly (feloniously) allowed even endless obvious perjuries (by City-AES-so-called lawyers Rieck, Tuero, etc), even forgeries (by City), even obvious repeated alterations of the court minutes (by

NYS-City, etc), as well as endless obvious frauds-falsifications and violations of compulsory Federal rules-laws!

However, we have never given any legal right to any Federal judge to try the compulsory criminal and civil cases (jury trial demanded), to try facts (which so-called judge Sweet has obviously falsified, distorted, fabricated!), to try genuine issues of the facts (which s-c judge Sweet also obviously falsified), since we have been told about amazing and shocking criminality-corruption-venality of s-c Federal and NYS justice systems in NY area-district.

Of course, s-c judge Sweet has been compounding many serious crimes by State and Federal high officials, lawyers, other obvious criminals and has been compounding the total corruption (which is known throughout the whole world) in that area.

Plaintiffs-scientists Y. and T. Miloslavsky have exposed different "scientific"

charlatans-chauvinists of different countries.

2. MEMORANDUM OF LAW

Legal Argument and Comments

1) ***V. 37 - §601 of NYS Laws has never given any legal power to any governor for expulsion/admission.*** NYS-City-AES-U.S.-so-called federal judge Sweet have known this perfectly. Thus they have obviously fabricated criminal trespass charges #91NO12146, and have obviously falsified the processes in the Federal court. The plaintiffs Y. and T. Miloslavsky have never been expelled from AES. Federal court has obvious jurisdiction according to 42 USC §§1985, 1986, 1983 and 18 USC §241 and 28 USC §1443 when "defendant" Y. Miloslavsky transferred the obviously fabricated criminal trespass case against him to Federal court under the obvious numerous violations of due process (the bringing of obviously fabricated criminal trespass charges; the failure to provide interpreter; then the illegal and

illegally forced ACD of Feb. 20-1991; then the only oral response by NYS-City court on accepted by NYS written "defendant's" Y. Miloslavsky's motions of June 14-1991 when "defendant" Y.Miloslavsky restored the criminal case against him in NYS court; no any traces of the compulsory discovery process by NYS-City in such obviously fabricated criminal trespass case by NYS-City; no any trace of any court document of any proof of any guilt of "defendant" Y. Miloslavsky; the other shocking and typical scandalous-uncivilized and absolutely impossible, for ***real civilized*** and non-fascist systems, violations perfectly proven in the discovery process against City including even non-giving out of any NYS courts files-documents, etc to "defendant" Yury Miloslavsky; see also the Ex. M in our feloniously suppressed motion of July 14-1992 by so-called Federal judge Sweet; etc. Some pages of Ex. M ***extremely interesting*** felonious "answers" by City are attached in

our BRIEF's APPENDIX. point c)).

NYS-City have never had any legal right to bring any charges based only (!) on obviously false, illegal, invalid s-c expulsion letter from viewpoint of NYS Laws. However, NYS-City have even officially confirmed such obviously felonious rights in the discovery process. See our APPENDIX - c), especially d)- Ex. R.

NYS-City-AES have never furnished any (even false) expulsion document concerning plaintiff T. Miloslavsky. S-c judge Sweet has also fabricated "facts" that "plaintiff T. Miloslavsky has been expelled" and that the case was based on Y. Miloslavsky's arrest.

2) ***NYS-City-cops have never had any legal right to arrest, to bring trespass charges for trespassing in public place***. NYS-City-the arresting policemen-so-called judge Sweet have known perfectly that the lobby of the building (where "defendant" Y. Miloslavsky was feloniously arrested on Jan. 21-1991) could never even physically be AES site since the multiroom-multifloor building

has never belonged to AES, since AES never rented the lobby which was opened for any public, guests, foreigners, building workers on Jan 21-1991, since AES rented only 7th floor meeting room for non-annual (see next perjuries, falsifications by s-c judge Sweet and by City-AES-Rieck about "annual...) only NY AES section meeting, not annual meeting (see APPENDIX- b) Ex. Q). Moreover, the felonious arresting cop was named by us in that Ex. H (see next perjuries, falsifications by s-c judge Sweet and City-AES-Rieck) in our motion of Oct. 15-1991.

3) ***NYS-City-cops have never had any legal right to arrest, to bring any trespass charges under the presentation of official ticket, official invitation, official organizer's notice which states clearly that such an event is opened for public, guests without any restriction***. NYS-City-the arresting policemen-so-called judge Sweet have known perfectly about this and have known perfectly that Y. Miloslavsky was

feloniously arrested under the conditions of point 2) and 3) which are independent from each other. §1985 shows clear jurisdictions (see APPENDIX- b)-Ex.Q).

4) ***NYS-City-U.S.-so-called Federal judge Sweet have never had any legal right to exceed any officially brought charges.*** NYS-City- s-c judge Sweet try feloniously to fabricate, to exceed the officially brought, only trespass charges #91NO12146. See the obviously felonious, fabricated Federal opinions of Dec. 23-1991 and Dec. 10-1992 by s-c judge Sweet ("disorderly conduct", "plaintiffs are not AES members", "the lobby was AES place", etc!) and see the obviously felonious City's motion for summary judgement and its three affidavits-***obvious perjuries!***

5) ***NYS-City-U.S.-cops have never had legal right to refuse admission to any citizen to any event opened to public, foreigners without any restrictions through the sale of tickets or through official invitations without just cause-CRL §40-e.*** The

felonious causes of the non-admissions have been *only*: "You are non-member" or "they just want you to leave". NYS-City-AES-so-called judge Sweet have feloniously suppressed-concealed the facts, such guaranteed fundamental constitutional rights. AES conventions, conferences have always been opened to public, foreigners through the sale of tickets without any restrictions, and AES sections' meetings have always been opened to public, foreigners, guests through any member's invitation without any restrictions. See the felonious deprivations of fundamental civil rights (of plaintiffs Y., T. and P. Miloslavsky) in which City policemen directly participated in the felonious deprivations-coercions-conspiracies since 1989 in our APPENDIX - a),b) and d).

6) After the obviously invalid expulsion of June 28-1990, after the strong legal warning of July 3-1990 concerning the obvious invalidity, criminality of so-called expulsion, AES sent (in Aug., Sept. 1990)

two voting AES ballots for 1991 and Nov. 14 invitation for AES NY section meeting to Y. Miloslavsky as AES member when Y.M. was present and exposed international charlatans! All of this has been the next absolute proof-evidence that Y. Miloslavsky has never been expelled from AES. NYS-City-AES-U.S.-so-called judge Sweet have known perfectly about this and have obviously falsified the compulsory criminal and civil processes in State and Federal courts. Crimes according to §1506, §241, PL §§215.40-45, etc. Clear Federal jurisdiction according to §1985, §1443, §241, etc! See our APPENDIX - all points a)-d).

7) Any Federal court-so-called judge Sweet have never had any legal rights and even a hypothetical chance to dismiss case for lack of jurisdiction if "defendant" transfered a fabricated (by NYS-City) criminal case to Federal court under §1443 and under absence of any court proofs-written document of "defendant's" guilt, validity of

so-called expulsion, absence of discovery process by NYS-City-Federal prosecutor, ***absence of written answers on accepted motions after the officially accepted restoration of the criminal case in NYS-City court and after refusal of illegal, illegally forced ACD without any admission of any guilt by "defendant" Y. Miloslavsky who demanded legally jury trial.*** Or if plaintiff is still being deprived of fundamental civil rights, when plaintiiff does not give any right to try case, to try genuine issue of facts to judge (jury trial demanded), case can not be dismissed also.

8) The discovery process against City, Ex. M in our feloniously suppressed motion of July 14-1992 have absolutely proved the total corruption-venality-criminality-conspiracies of NYS-City-AES-Federal officials-so-called judge Sweet (see also proven violations of the treaties). So-called judge Sweet allowed even the endless perjuries, forgeries, even alterations of

court minutes! Crimes according to §§1621, 1506, 1509, 241, etc PL §§215.40-45, 105, 175.10, 135.05/60, etc. ***All of this, all points 1)-8) of this Memorandum of Law prove absolutely the feloniously suppressed-concealed, crystal clear Federal jurisdiction according to §§241, 1985, 1986, 1983, 1331, 1343, 1443, etc! and that so-called Federal judge Sweet obviously committed the many obvious crimes including compounding the many serious crimes by NYS-City-U.S. high officials and the total corruption.***

3. Conclusion - Legal Compulsory Demands

1) Arrest, dismiss, criminally prosecute s-c judge Sweet and the other Federal and State officials, judges, prosecutors, lawyers, charlatans who have obviously committed the many obvious and proven crimes and falsified the criminal and civil processes in the courts.

2) The obviously felonious s-c Federal opinions of Dec. 23-1991/Dec. 10-1992

must be made void in accordance with 18 USC §1506.

3) The fulfillment of the legal and feloniously suppressed demands stated in the conclusion of the attached motion of July 14-1992 (see our APPENDIX - b)), all preliminary injunctions.

4) To provide within one month the legally demanded jury trial concerning the obviously fabricated (by City-NYS) criminal trespass case (against "defendant" Y. Miloslavsky) which has been legally transfered to Federal court in complete accordance with 28 USC §1443.

Now we legally demand speedy trial by an impartial jury (USA Constitution, Am. 6).

5) To provide within two months the legally demanded separate jury trial against City (City has many times stated that "the discovery process is completed") separately from AES since the criminal and civil processes have been falsified in Federal, NYS-City courts.

Respectfully submitted, *Dated January 4-1993*

Yury Miloslavsky, Tatyana Miloslavsky -

Scientists

APPENDIX E

THE APPELLANTS' REPLY BRIEF

United States Court of Appeals

for the second Circuit

Yury Miloslavsky, and Tatyana Miloslavsky,

Plaintiffs-Appellants,

v.

AES Engineering Society, Inc.,

Defendant,

City of New York,

Defendant-Appellee.

Docket Number #93-7056

APPELLANTS' RESPONSE

THE RESPONSE to the felonious City's brief

Again the obviously felonious City falsifies the criminal and civil processes in its appellee's brief (crimes acc. to PL §175.10; 18 USC §§1506, 241, etc) when NYS-City fabricate next new "facts" ("proceeded to the elevator", "single incident of conduct

such as an arrest", "their membership was canceled", etc) and repeat old felonious, absolutely irrelevant rubbish-falsifications about those so-called "disorderly conduct", "disruptive conduct", "municipal policy", etc. However, we have had ONLY official fabricated non-criminal trespass summons #1387234729 (by the felonious arresting cop Edmond) attached now in our next appendix as Ex. H-page 5, and we have had ONLY refabricated (by NYS-City) official criminal trespass charges #91NO12146 attached now as Ex. H-page 6.

Of-course, there can NEVER be any reasonable, non-felonious and NON-CONSPIRATORIAL (...!) beliefs for real cause of "trespass" arrest in... PUBLIC PLACE (the lobby)... and under the presentation of the officially recognized (by the City's arresting cops and the hired bandits Scott, Rieck) ticket, invitation and the other documents for the event opened to the public, any non-member, guests, foreigners without

any restrictions.

NYS-City-AES-s-c-judge Sweet-federal prosecutors-US have never furnished again any (even false) expulsion-CANCELLATION document concerning plaintiff T. Miloslavsky. We have had only the obviously felonious so-called expulsion letter concerning plaintiff Y. Miloslavsky attached now as Ex. H-page 1.

Such a City has obviously concealed again the numerous (not City's "single"...) municipal policy. See the now attached concealed important document as Ex. N concerning the felonious municipal and NYS policy and also concerning our complaint #8905580 of 1989 (!) against felonious City's policy. At last, see again our motion of Oct. 15-1991 and Ex. F in our APPELLANTS'S BRIEF concerning the obviously felonious City's municipal policy.

Of-course, NYS-City-AES-US have never furnished feloniously again any compulsory jury trial verdict concerning the refabricated charges #91NO12146 by NYS-City,

any proofs of guilt, any police reports, etc, etc.

Moreover, the trickishly and feloniously cited ALL cases (cited by s-c judge Sweet-City-AES) have NEVER been relevant (SIMILAR!) to our crystal clear case.

So-called judge Sweet has gone so far that this so-called Fed. "judge" also has obviously fabricated the "facts" (even in that Fed. court) which have been perfectly stated in our BRIEF.

IN CONCLUSION, we must state that we definitely expect (from this next Fed. court) the strict fulfillment of ALL our legal demands (stated in our brief) including the compulsory arrests of the obviously felonious Fed. "judge" Sweet, the ringleaders, the criminal lawyers Rieck, Tuero, etc, the other criminals.

Respectfully submitted, *Dated: April 5-1993*

Scientists

Yury Miloslavsky, Tatyana Miloslavsky

APPENDIX F

PLAINTIFFS' MOTION OF JULY 14, 1992

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

Yury Miloslavsky, Tatyana Miloslavsky plaintiffs,

-against- 91 Civ. 6042

City of New York, (RWS)

Audio Engineering Society Filed:

(co)defendants. July 14, 1992

MOTION to deny City's motion for summary judgment

SUCH A CITY'S MOTION MUST BE AUTOMATICALLY DENIED SINCE:

a) Such a motion was served 11 full days (not 15) before the return day (Loc. Rules 3 subparagraph (2) of paragraph (c)). City again falsified date (label) of sending - Ex.

K,L (signed by mailman).

b) We do have huge genuine dispute over the facts(Ex.M)-Fed. Rules 56 (g), 37 (a)(3), 59 (b)(3,4); 18 USC §§1621, 1506, 1509-OBSTRUCTION OF JUSTICE-ORDERS, PERJURIES.

c) No permission for serving the motion after last written court order of June 23-1992.

NEXT PERJURIES, FRAUDS, CRIMES-CONSPIRACIES BY CITY, AES-RIECK.

5 last interesting City-Tuero's letters, so-called City's answers (Ex. M), so-called memorandum of law, declarations and their three affidavits represent next obvious falsifications, fabrications and felonious rubbish and represent crystal clear OBSTRUCTION OF JUSTICE-ORDERS and other obviously committed crimes: tampering with many physical evidences, compounding crimes, conspiracies, etc:

1) NYS-City-courts-judges-prosecutors-cops-AES-Rieck HAVE NEVER GIVEN any proof of LEGALITY-VALIDITY of the three so-called expulsion letters (Ex. H, M), arrest-false

imprisonment-criminal prosecution-barbarian deprivations of fundamental civil rights (of Y,T, and P. Miloslavsky)-non prevention of obvious crimes-violations (Ex. N, O, P, F) and **HAVE NEVER GIVEN** any proof of ILLEGALITY-INVALIDITY of the feloniously suppressed-concealed invitation speech for T. and Y. Miloslavsky to arresting cops, invitation document (special ticket!-see our Ex. Q, B) for the non-annual (see next City's frauds in City's felonious s-c "memorandum of law", page 3) AES meeting of Jan. 21, 1991 (where Y. Miloslavsky was feloniously arrested (Ex. Q) and where T. and P. Miloslavsky were feloniously deprived of their fundamental civil rights-freedom of press, assembly, speech and physically abused-eliminated by AES-Rieck-Scott-cops from the lobby opened always for public non-members, even foreigners; Ex. G) and the other many absolute physical evidences such as: two voting ballots (Ex. R) for feloniously arrested Y. Miloslavsky sent by AES AFTER

the invalid expulsion (Ex. H) and AFTER legal warning by the letter of Jul. 3, 1990- Ex. D.

2) However, the BURDEN of PROOFS (in this fabricated case when City arrested and criminally prosecuted Y. Miloslavsky) has always lain absolutely on City-NYS-courts-judges-prosecutors-cops-AES-Rieck. See City's felonious answers- Ex. M, ##63-69, etc!

3) The affirmation Ex. Q, our suit and our motion of Oct. 15-1991, etc prove perfectly that legal cause of the arrest has never existed, never been proved by City's courts in criminal proceedings of Feb.-June 1991, by City comptroller's office, etc Ex. P (the complaint #91P1008652).

4) The felonious arrest led to the felonious imprisonment, to the illegally forced order of protection and ACD and to awful fabrications, violations of due process in the criminal court (Ex. A, B). After such an obviously illegal and illegally forced order of protection and ACD Y. Miloslavsky refused such illegal order of protection and ACD

(which constitute a clear violation of fundamental civil rights of Y. M.). And Y. Miloslavsky restored criminal proceedings (Ex. A) in the City's criminal court (on Apr. 17/May 23/June 14-1991) and filed complaint in City's comptroller's office (Ex. P). After the non-prevention of the City-AES crimes-violations by the City's comptroller's office, after the next fabrications, violations of due process (Ex. B, C), the malicious prosecution in the criminal court Y. Miloslavsky transferred this case to this Federal court in accordance with 28 USC §1443 (and §1343, 42 USC §1985, §1986 and the §241).

As a consequence, it is crystal clear that the malicious prosecution and the criminal proceedings existed. Moreover, the City's prosecutors, the arresting cops have never had any legal right to bring such an obviously fabricated case against Y. Miloslavsky (see our correct motion of Oct. 15-1991 and Ex. B, etc).

5) It is also crystal clear that the felonious municipal policy and custom of the deprivation of fundamental civil rights of citizens have always existed. For example, see the absolutely proven felonious deprivation of the civil rights of both plaintiffs and P. Milsolavsky on Oct. 18/21-1989, Jan. 21-1991, Oct. 4-1991, Feb.-Aug. 20-1991 in the criminal court with the help of the illegal order of protection by the City, City's cops-judges-prosecutors. All of this was perfectly explained in our lawsuit, Oct. 15-1991 motion and in our two discovery process documents of Jan. 6/March 25-1992, etc, etc, etc.

By the way, all AES conventions, conferences, monthly NY section meetings have been always opened for public, non-members, foreigners. As a consequence, plaintiffs and P. Miloslavsky have been deprived of the fundamental civil rights since above-mentioned Oct. 1989 to the present time by the proven conspirators: City-cops-

prosecutors-Rieck-AES, etc.

6) Points 5,6,14,16,17,20,21 in City's statement pursuant to rule 3(g)... and points 3,4,5,6,10,11,13,14 in Tuero's declaration of July 6-1992 are obviously false now.

7) NYS-City again commit obvious crime (see our correct motion of Oct. 15-1991 and Ex. G), when they again furnish to Federal court the obviously altered court minutes in Tuero's declaration (Point 13b) of July 6-1992 and memorandum of law of July 6-1992 (page 5 point b).

8) And City even officially confirmed that NYS-City have had legal right to fabricate, to bring false charges. See the City's answers -Ex. M,#68

CONCLUSION

Now it is clear that City-AES-Rieck-Tuero falsified the process in this federal court. This means:

1) So-called City's motion for summary judgement must be automatically denied in accordance with the frauds, causes and the

compulsory Federal Laws, Rules mentioned in the beginning of this motion.

2) The Federal opinion of Dec. 23-1991 is made void according to Federal Rules 58(b)(3,4) and 18 USC §1506/9 and ***"There is no requirement for state participation or support for the conduct of the individual conspirators who conspire to deprive another of equal protection of the laws or equal privileges and immunities;"*** Cohen vs. Illinois Institute of Technology C.A.Ill.1975.

3) The fulfillment of the preliminary injunctions mentioned in our lawsuit.

4) Tuero and Rieck must be eliminated from this case by this Federal court.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, NY

July 14, 1992

Yury Miloslavsky - Pro Se

Tatyana Miloslavsky - Pro Se

APPENDIX G

AFFIRMATION (AFFIDAVIT) IN PLAINTIFFS' SUPPORT

UNITED STATES DISTRICT COURT — Ex. Q Filed:

SOUTHERN DISTRICT OF NEW YORK — July 14, 1992

Yury Miloslavsky, Tatyana Miloslavsky - plaintiffs,

-against-

City of New York, Audio Engineering Society

(co)defendants

AFFIRMATION

91 Civ. 6042 (RWS)

Philip Miloslavsky makes the following affirmation under the penalties of perjury:

1) I was and am a member of AES. I am familiar with the facts and circumstances of this action, and submit this affirmation in the support of plaintiffs' Motion to deny City's obviously felonious motion for summary judgment and obviously felonious it's 3 affidavits.

2) On January 21, 1991 I, with two

AES members-plaintiffs arrived in the lobby of 311 West 34th st., always open to the public, at 6:30 P.M. for AES NY section meeting open to guests (see page two of this affidavit) without any restrictions. Hired bandit Scott grabbed Y. Miloslavsky and tried to shove him out of the lobby without any words. Rieck warned Y. and T. Miloslavsky that if they went to the meeting room they wil be arrested and Rieck said that if I try to distribute any scientific documents to any participants then I will be eliminated from the meeting. Plaintiffs tried to give Rieck the absolute physical evidence (legal documents of July 3, Nov. 14, 1990 and §601 of Vol. 37 of NYS Laws) of invalidity of so-called expulsion documents of June 28, 1990.

Rieck said: "I already saw all these documents, laws". T. Miloslavsky called the police. I warned the two arriving police officers that Y. and T. Miloslavsky were my invited guests and showed police officers the document copied on page 2 of this affirmation

and invitation document (special official ticket) for Y. and T. Miloslavsky and the other above mentioned documents and again warned the two police officers that such AES meeting was open for guests: public, non-members, even foreigners without restrictions. Retired policeman Scott and Rieck conferred and conspired with the police officers. Suddenly police arrested Y. Miloslavsky and asked Rieck whether or not to arrest T. Miloslavsky. Police told T. Miloslavsky and myself to leave the lobby (a clear felonious deprivation of fundamental civil rights). Y. Miloslavsky was put in jail in the police station for one hour for obviously non-existent trespass while I waited for him.

3) The police officer C. Edmond never informed Y. Miloslavsky that he would have to leave before arresting him. Compare this to the ridiculous and obvious falsification, perjury by C. Edmond in his affidavit of June 11, 1992 in such a City's

motion of July 6, 1992. C. Edmond never had any legal right to order and even to inform Y. Miloslavsky to leave the lobby in such a case.

4) Of-course, policeman C. Edmond again fabricates when he writes in his affidavit: "I observed a man exhibiting loud and disorderly conduct in the lobby".

5) Of-course, such a policeman had to arrest Rieck, Scott (not Y. Miloslavsky) for illegal coercion, when I showed to the two police officers my invitation document (special official ticket) and the notice for the AES meeting.

6) Y. Miloslavsky recieved two voting ballots (in August and September of 1990) for 1991 after the legal warnings in letter of July 3, 1990 concerning invalid, felonious expulsions-letters of June 28, 1990. Plaintiff's were and are AES members.

7) I and plaintiffs were (during many years) and are still in the condition of the barbarian deprivations of fundamental

civil rights and obvoiusly corrupt NY City and all so-called "justice" systems (the courts, judges, prosecutors, cops, lawyers) never prevented the obvious crimes-violations against plaintiffs and myself and even continued to commit many serious crimes (tampering with physical evidence, compounding crimes, perjuries, etc).

I declare under penalty of perjury that the foregoing is true and correct.

Dated on July 11, 1992

Philip Miloslavsky

APPENDIX H

THE SCANDALOUS CITY'S ANSWERS FROM THE DISCOVERY PROCESS.

Ex. M-pages 20, 21, 22 from plaintiffs' motion of July 14-1992 filed: July 14-1992

Responce to Request No. 63

Denied.

Request No. 64

AES ringleaders-Rieck have falsified the process in the Federal court.

Responce to Request No. 64

Denied

Request No. 65

In City-NYS courts BURDEN OF PROOF of City-NYS charges and of defendant's guilt [according to LAWS] has lain on City-NYS prosecutors, people of NYS.

Responce to Request No. 65

Denied

Request No. 66

BURDEN OF PROOF of legality, checking, validity of the ONLY fundamental-basic,

existent written evidence (see so-called expulsion letter of June 28-1990) in the charges #91NO12146 has lain on the people of NYS, City, City's prosecutors (Breen, Morgenthau, etc.).

Responce to Request No. 66

Denied

Request No. 67

Charges #91NO12146 have never been proven by City, people of NYS, the City's prosecutors (Breen, Morgenthau, etc.), the City's courts.

Responce to Request No. 67

Denied

Request No. 68

City, People of NYS, the City's prosecutors have never had any legal rights to bring any falsified, false charges in City-NYS courts.

Responce to Request No. 68

Denied

Request No. 69

NYS and Federal Laws-Rules, their Court's written decisions-minutes have been physical

evidence.

Responce to Request No. 69

Denied

Request No. 70

The three so-called expulsion letters [Ex.H] and the check [Ex.H] and Ex.I were and are physical evidence.

Responce to Request No. 70

Denied

Request No. 71

Our documents of Nov. 14 and July 3-1990 were and are physical evidence.

Responce to Request No. 71

Denied

Request No. 72

There is a lot of other physical evidence concerning our lawsuit...

Responce to Request No. 72

Denied

Request No. 73

It was and is typical FASCIST crimes when NYS-City, NYS-City's officials, attorneys, courts, prosecutors do not give even court

files to the "defendant" and Y.M. (see our lawsuit and Jan. 6-92 document, etc s-c City's answers of s-c Feb. 20-1992, etc).

Responce to Request No. 73

Denied

Request No. 74

Plaintiffs Y., T. and P. Miloslavsky were and are still deprived of their fundamental civil rights.

Responce to Request No. 74

Denied

Request No. 75

A single act if discrimination [in the City] has cost about $25,000 dollars in the many NYS-City cases.

Responce to Request No. 75

Denied

Request No. 76

It is typical crimes-violations when NYS-City [NYS governmental bandits-"officials"] do not give to plaintiffs each and all legally demanded documents (see so-called City's answers of s-c Feb. 6/20-1992, etc!).

Responce to Request No. 76

Denied

Dated April 14, 1992

NORMA KERLIN

Assistant Corporation Counsel NK4103

APPENDIX I

THE SO-CALLED EXPULSION LETTER

Ex. H page 1/Filed: Oct. 18-1991/91 Civ. 6042

Audio Engineering Society, Inc.

60 East 42nd Street, New York, NY 10165 USA

CERTIFIED MAIL

June 28, 1990

To: Dr. Yurij Miloslavsky

2 Ellwood Street, Apt. 5E

New York, New York 10040

From: AES EXECUTIVE COMMITTEE

By a majority vote of the Board of Governors, your membership in the Audio Engineering Society is cancelled upon receipt of this notice. Enclosed is a check for the remainder of the dues year.

Further, the Society has revoked any privileges granted you to attend future Society functions and will direct you to leave. Your failure to do so can subject you to arrest under the Penal Law.

Enclosure: ($30 check) John J. Bubbers

Secretary, Audio Engineering Society

"This signature is invalid (Ex. E, B etc!). This letter is also obviously false [PL §210.45], criminal since AES governors have never had any legal power for expulsion. See Ex. E, motion of Oct. 15-1991, etc, etc."

APPENDIX J

SOME EXCERPTS FROM PLAINTIFFS' MOTION OF OCT. 15-1991

Filed: Oct. 18-1991/91 Civ 6042

THE N.Y.S. LAWS AND CIVILIZED RULES FOR EXPULSION. The N.Y.S. laws §601, Vol. 37 state absolutely clearly that power for expulsion belongs to membership at large (not to AES's governors, see the three criminal fabricated "expulsion" letters - Ex H plus Ex. I - AES BYLAWS). Only the signature of a trial body is valid on expulsion documents.

In opposite case, any other signatures are NULL & VOID and criminal, see also our Ex. E.

By the way, even signature of president of any civilized country, court's clerk or prosecutor's signature on court decisions, sentences, orders also has been NULL & VOID and ridiculous. Any impostor, criminal in N.Y.C. can write, sign similar expulsion documents. However, they are also NULL & VOID, ridiculous, sometimes criminal (PL 210.45). Moreover, it is historically well-

known thta even a fascist society can not expel its own members without so-called reasons (Compare to the ridiculous AES expulsion letters; Ex. H). According to the Not-For-Profit Corporation Law §601 all next compulsory conditions must be fulfilled (before expulsion): prior notice, written statement of charges, opportunity to be heard at meeting of whole society, fair trial, etc. Of-course, in our case, none of these compulsory conditiond were fulfilled. That is why all such threre AES expulsion documents are also criminal according to PL 210.45 (see our Ex. E...!) and AES-Rieck's so-called our "non-membership status" is also obvious perjury according to 18 USC §1621.

3) NEXT CRIMES BY DEFENDANTS. On Oct. 3, 4-1991 AES-Rieck and other hired guards, etc committed next obvious crimes, violations, discrimination (national origin, professional-CRL §40-c,e) with the help of obvious conspiracies according to 18 USC §241. Corrupt and bureaucratic City has had

power to prevent the severe damages, injuries, crimes, etc (at this time also, see our Ex. F, J, B, C and 28 USC §1343). The Appeal (Ex.C) went to Morgenthau acc. to the Law.

According to the two our important documents (Ex. F, J) and the many conversations with supervisor of law department of N.Y.C. Ms. G. Goodman, AES members: plaintiffs and P. Miloslavsky came to Hilton Hotel (1335 Av. of Americas, N.Y.C.) for registration and annual meeting at 91st AES convention, open also for public, non-members without any exception. However, Rieck, AES board of governors did not let the plaintiffs and P. Miloslavsky, official investigation committee fulfill the many official functions (Ex. J) guaranteed by U.S. Constitution (Am.1), N.Y.S. Laws, AES BYLAWS, the Treaties and, again, they physically eliminated us as soon as we appeared. When plaintiffs called police on Oct. 4-1991, four policemen refused to arrest Rieck, Plunkett,

other AES governors who furnished, again, the obviously criminal three AES expulsion letters and police forced us to leave the building without any reasonable cause since such convention was open to any non-members without exception!..... However, why have plaintiffs, P. Miloslavsky not been arrested, imprisoned and prosecuted in court (no promised fearsome "final" order of protection) in absolutely same situatiuon as January 21.-1991.....?!

According to Stevens v. N.Y. racing Association, Inc. case, which "our" Rieck loves so much to cite trickishly, the two independent compulsory conditions must be fulfilled at the same time for legal non-admission (by Not-For-Profit organization):

1) *There must be no any discrimination (see the professional, national origin, etc discrimination against us).*
2) *There must be a special provision in BYLAWS for non-admission of*

non-members for events opened to public (plaintiffs, P. Miloslavsky have been even AES members and official representatives of investigation committee and press).

Moreover, the prohibition for Stevens to attend was only for very special places ("paddock", "backstretch"), under free (Ex.E) admission terms!

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Yury Miloslavsky

Tatyana Miloslavsky

October 15-1991

New York, NY